

2410.03 Administrative Procedures Act

Issued January 1, 1994

SUBJECT: Administrative Procedures Act.

APPLICATION: Executive Branch Departments and Sub-units.

PURPOSE: To ensure consistent application of the requirements of the Act.

CONTACT AGENCY: Office of Attorney General (AG) - Opinion & Public Information Unit.

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SUMMARY: The Administrative Procedures Act addresses the effect, processing, promulgation, publication and inspection of State agency determinations, guidelines and rules; and provides for publication and dissemination of the Michigan Register, the conduct of administrative hearings, and related matters.

The Act contains many specific provisions. This description covers guidelines, rules and regulations and administrative hearings, the basic items most applicable to State agency operations. Specifically excluded from this discussion are those provisions in sections 24.275a (Hearings where witness testifies as alleged victim of sexual, physical or psychological abuse) and 24.315 (Exceptions). However, one should refer to the statute and consult with the Attorney General for more information.

APPLICABLE FORMS: Regulatory Impact Statement Form.

PROCEDURES:

Instruction A: Guidelines

A guideline, or agency statement or declaration of policy, is a statement which is binding only on the agency and does not have the force of law. Before it can be adopted, notice of the proposed guideline must be given to all of the following:

- Joint Committee on Administrative Rules.
- Legislative Service Bureau.
- Office of the Governor.

Each person who requested the agency in writing for an advance copy.

- Notices are to be given in writing and mailed to the person at the last address provided by the person to the agency.
- Requests for notice are renewable each December.
- Each notice must contain:
 - A statement of the terms or substance of the proposed guideline.
 - A description of the subjects and issues involved.
 - The proposed effective date of the guideline.
 - A statement that the addressee may express any views or arguments regarding the proposed guideline or the proposed effective date of the guideline.
 - The address to which written comments may be sent.
 - The date by which comments shall be mailed, which should not be less than 60 calendar days from the mailing date of the notice.
- When a guideline has been adopted, notice of the guideline must be given to all of the following:
 - Joint Committee on Administrative Rules.
 - Legislative Service Bureau.

- Office of the Governor.
- Each person who requested the agency in writing for an advance copy.
- Guidelines may not be adopted in lieu of a rule.
- Guidelines adopted after December 22, 1986 are not valid unless processed in accordance with the requirements of the Act, except that if the guideline was processed appropriately, inadvertent failure to provide notice to a person who requested advance notice does not invalidate the guideline.
- Proceedings to contest a guideline on the grounds that the promulgating procedures were not followed must be begun within 2 years after the effective date of the guideline.

Instruction B: Rules

General Information:

- Any regulation, statement, standard, policy, ruling, or instruction of general applicability which implements or applies laws which an agency enforces or administers, or which prescribes the organization, procedure or practice of any agency, and which was not in effect before July 1, 1970, must be promulgated in accordance with the requirements of the Act. There are a variety of exceptions which can be found in the definition of "Rule" in the Glossary.
 - Rules, or exceptions to rules, may not discriminate in favor of or against any person.
- Persons affected by rules are entitled to the same benefits as any other persons under the same or similar circumstances.
- An agency cannot create a criminal violation or penalty by rule.
- Rescission of a rule does not revive a previously rescinded rule.
- The amendment or rescission, of a valid rule, does not defeat or impair a right accrued, or affect a penalty incurred, under the rule.
- Except in cases of amendments of rules regarding inmates, a rule may be amended or rescinded in another rule which constitutes the whole or a part of a filing of rules, or as a result of an act of the Legislature.
- An agency may adopt by reference in its rule, without publishing the adopted matter in full, all or part of a code, standard or regulation which has been adopted by an agency of the United States or by a nationally recognized organization or association.
 - The reference shall identify fully the adopted matter, by date and other identifying information, and is not to cover any subsequent amendments or additions.
 - Subsequently amended materials must be adopted by the agency in the same manner as was the original material.

Types of rules which are to be promulgated:

- Those describing agency organization, including the general course and method of its operations and relevant forms.
- Those describing agency procedures available to the public, and the ways in which the public may obtain information and submit requests.
- Those prescribing procedures for contested case hearings, so long as they are not inconsistent with the provisions of this Act or other applicable statutes.

Requests to an agency to promulgate a rule:

- Within 90 calendar days of filing of a request by an individual, the agency must either:
 - Initiate processing of a rule, or
 - Issue a concise statement of its principal reasons for denying the request.
- The denial is not subject to judicial review.

Adoption of a rule:

- Before a rule is adopted, an agency must give notice of a public hearing and provide persons with the opportunity to present data, views, questions and arguments.
 - Notice is to be provided in the manner required by an applicable statute or in the following manner:

- Published not less than 10 days or more than 60 days before the date of the public hearing, in at least 3 newspapers of general circulation in different parts of the State, 1 of which shall be in the Upper Peninsula.
- Employ additional methods, as appropriate, including but not limited to publication in trade, industry, governmental or professional publications.
- Submit a copy to the Legislative Service Bureau, for publication in the Michigan Register, which notice shall be published not less than 30 days nor more than 90 days before the public hearing.
- The public hearing must comply with any applicable statute, but is not subject to the provisions regarding contested case hearings.
- The director of the promulgating agency, or 1 or more designated persons who have knowledge of the subject matter of the hearing, shall be present at the public hearing and shall participate in discussion of the proposed rule.
- The proposed rule must be approved by the Legislative Service Bureau and the Department of the Attorney General.
 - The Legislative Service Bureau is to approve the proposed rule regarding whether it is proper in all matters of form, classification, arrangement and numbering.
 - The Department of the Attorney General is to approve the proposed rule if it determines it to be legal.
- After the various notices and publications have been made, and within 2 years after the date of the last public hearing on the proposed rule, before adopting the rule the agency must transmit the proposed rule by letter to the JCAR.
 - The original and 5 copies shall have attached approval certificates from the Legislative Service Bureau, including 3 certificates which have security brads; 45 copies shall not have certificates.

Each agency letter of transmittal shall include the following:

- A regulatory impact statement on a 1-page form provided by the JCAR, which provides estimates of the impact of the proposed rule on all of the following:
 - Revenue, expenditure, and paper work requirements on the agency proposing the rule.
 - Revenue and expenditure impacts on any other state or local government agencies affected by the proposed rule.
 - Taxpayers, consumers, industry or trade groups, small business or other applicable groups affected by the proposed rule.
 - If there will be an impact on small business, the agency also shall draft a Small Business Economic Impact Statement, in a form prescribed by the Committee, containing all of the following:
 - The nature of any reports by small business, which would be required to comply with the proposed rule, and the estimated cost of their preparation.
 - Analysis of costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor and increased administrative costs.
 - The nature and estimated costs of any legal, consulting, and accounting services which small businesses would incur in complying with the proposed rules.
 - A statement regarding whether the proposed rules will have a disproportionate impact on small businesses because of their size.
 - Evaluation of the ability of small businesses to absorb the costs estimated above, without suffering economic harm and without adversely affecting competition in the marketplace.
 - Costs, if any, to the agency for administering or enforcing a rule which exempts or sets lesser standards for compliance by small business.
 - The impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

- A statement regarding the manner in which the agency has reduced the economic impact of the rule on small businesses, or a statement that such reductions were not feasible.
- An agency shall reduce the economic impact of its rule by doing 1 or more of the following, when it is lawful and feasible:
 - Establishing differing compliance or reporting requirements or timetables.
 - Consolidating or simplifying compliance or reporting requirements.
 - Establishing performance rather than design standards, when appropriate.
 - Exempting small businesses from any or all of the requirements of the rule.
- A statement regarding whether, and how, the agency involved small businesses in development of the rule.

NOTE: The Small Business Economic Impact Statement also must be sent to the Director of the Department of Commerce for review. Commerce must review the statement and within 30 days, notify the JCAR of any additional information pertinent to the Committee's review.

- If the rule is approved by the Committee, the agency may adopt the rule:
 - If the rule is not approved by the Committee, the agency may not adopt the rule unless 1 of the following occurs:
 - The legislature adopts a concurrent resolution approving the rule within 60 days after the Committee report has been received and read into the respective journal of each house; or
 - The agency resubmits the proposed rule and the Committee subsequently approves the rule.
 - After approval and formal adoption, an agency shall, at least 10 days prior to filing with the Secretary of State, transmit a copy of the rule to the Governor.
 - After the expiration of the 10 day period, the agency must file 3 copies of the rule with the Secretary of State bearing the required certificates of approval and adoption and true copies of the rule without the certificates.
 - Except for emergency rules, an agency shall not file a rule with the Secretary of State until at least 10 days after the date of the certificate of approval by the Committee or the adoption of a concurrent resolution by the legislature.
- Effective dates of rules
 - Except for emergency rules, rules are effective on the date fixed in the rule, which may not be more than 15 days after the date it is promulgated, or if there is no date, then it is effective on the date it is published in the Michigan Register.
- Withdrawal of a Proposed Rule
 - An agency may withdraw a proposed rule by leave of the Committee.
 - A withdrawn rule may be resubmitted, but then deemed to be a new filing.
 - Emergency Rules
 - An agency may determine that preservation of the public health, safety, or welfare requires the issuance of an emergency rule.
 - The Governor must concur in the finding of an emergency.
 - The agency may issue an emergency rule, which shall be effective upon issuance for a period not to exceed 6 months without compliance with other provisions of the Act, except that it must be published in the Michigan Register.
 - The rule may be extended for 1 additional 6 month period by the filing of a Governor's certificate of the need for the extension filed prior to the expiration of the initial 6 month period.

- Emergency rules are not numbered or included in the Michigan administrative code, but are to be noted in the annual supplement to the code.
- May be rescinded by concurrent resolutions of the legislature.
- Amendment and Recession of Rules
 - The Committee, an appropriate standing committee or member of the legislature, upon a belief that a promulgated rule or any part of such a rule is unauthorized, not within legislative intent or inexpedient, may do either of the following:
 - Introduce a concurrent resolution expressing legislative determination that the rule or part thereof should be amended or rescinded at a regular or special session.
 - Adoption of the concurrent resolution constitutes legislative disapproval of the rule. However, rejection of the resolution does not constitute legislative approval of the rule.
 - Introduce a bill at regular session or special session if included in the Governor's message which amends or rescinds the rule or part thereof.

Declaratory ruling on the applicability of a statute, rule or order

- Upon request of an interested person an agency may issue a declaratory ruling on the applicability to an actual state of facts of a statute administered by the agency, or a rule or order of the agency.
 - Agencies shall publish, by rule, the form for such a request and the procedure for its submission, consideration and disposition.
 - A declaratory ruling is binding upon the agency and the person requesting it unless it is altered or set aside by any court.
 - An agency may not retroactively change a declaratory ruling but may prospectively change a declaratory ruling.
 - Declaratory rulings are subject to judicial review in the same manner as an agency final decision or order in a contested case.
- Declaratory judgments
 - Unless an exclusive procedure or remedy is provided by a statute governing the agency, the validity or applicability of a rule may be determined in an action for declaratory judgment.
 - The circuit court must find that the rule or its threatened application interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the person bringing the action.
 - The action must be filed in the circuit court of the county where the person resides or has his or her principal place of business, or in Ingham county.
 - Prior to filing an action, a person must first have sought and been denied a declaratory ruling from an agency.

Department of Attorney General:

- Approves proposed rule if it considers the proposed rule to be legal.

The Legislative Service Bureau:

- Performs the editorial work for the Michigan Register and administrative code and supplement.
- Approves proposed rule if it deems the rule proper as to all matters of form, classification, arrangement and numbering.
- Upon request, publishes proposed and final rules in the Michigan Register.
- Annually publishes a supplement to the Michigan administrative code, which is to contain all promulgated rules published in the Michigan Register during the current year, except for emergency rules, a cumulative numerical listing of amendments and additions to, and rescissions of rules since the last code compilation, and a cumulative alphabetical index.
- Upon request, shall prepare reproduction proofs or negatives of the rules or portion of the rules of each agency.

- Agencies requesting this service shall reimburse the Bureau for this service from their appropriations.
 - o Shall provide copies of the Michigan Register, the administrative code and supplements to various entities, including 3 copies of each to each department, and additional copies to an officer or agency approved by the Bureau.
- These documents are for official use only and are to be delivered to successors. However, legislators may retain copies sent to their homes.

The Joint Committee On Administrative Rules:

Structure:

- This committee consists of 5 members of the Senate and 5 members of the House of Representatives, appointed in the same manner as standing committees are appointed, for terms of 2 years.
- 3 members from each house shall be of the majority party, and 2 from the minority party.
- The chairperson alternates between houses each year.
- Members serve without compensation, but do receive reimbursement for relevant expenses.
- The Committee is to report its activities and recommendations to the legislature at each regular session.

PROCEDURES:

- Action taken by the committee shall be by concurring majorities of the members of each house.
- Members may hold hearings on rules transmitted to the committee.
- Is to notify the appropriate standing committee of each house when rules have been transmitted to it by the Secretary of State.
- Notifies the chairpersons of standing committees and all committee members of public hearings on proposed rules.
- The committee may prescribe procedures and standards not inconsistent with this Act, or other applicable statutes, for drafting, processing, publication and distribution of rules. These procedures are to be published and distributed by the Legislative Service Bureau.
- Within 2 months after receipt of an agency transmittal, the committee must consider the rule. It may, by majority vote, extend the time needed to consider a particular rule by 1 month to a total of not more than 3 months. This provision does not apply to emergency rules.
 - o If approved within the time periods mentioned above, attaches a certificate of approval to all but 1 copy of the proposed rule which bears Legislative Service Bureau certificates and sends copies to the issuing agency.
- If not approved within the time periods mentioned above, the Committee will report the non-approval to the legislature and return the proposed rule to the issuing agency.
- May suspend a rule or part of a rule promulgated during the interim between regular sessions if so authorized by a concurrent resolution of the legislature.
 - The Committee must notify the promulgating agency, the Secretary of State, the Department of Management and Budget and the Legislative Service Bureau of the suspension of a rule or part thereof.
 - The suspended rule or part thereof is not to be published in the Michigan Register.
 - A rule suspended by the Committee continues to be suspended until the end of the next regular session of the legislature.

The Secretary of State:

- Endorses the date and hour of filing of rule on 3 copies bearing certificates and retains 1 copy of public inspection.
- Causes rules to be arranged and bound with their attached certificates and published as a supplement to the Michigan Register, as often as he/she deems advisable.
- Certifies under his/her hand and seal that each volume contains specified rules.
- Keeps a copy of the bound version of the rules in his/her office and makes them available for public inspection.

- Transmits copies of filed rules to:
 - The secretary of the Committee.
 - The secretary of the senate and clerk of the house for distribution to each member.

Department of Management and Budget:

- Must send to the home address of a new member of the legislature the current volume of the Michigan Register and a complete copy of the administrative code.
- Shall deliver copies of the Register and code to the State Library when requested to do so.
- Shall make available copies of the Register and code for sale at a price not less than the publication and distribution costs determined by the Bureau.

Instruction C: Contested Case Hearings

Parties:

- Shall be given an opportunity for a hearing without undue delay.
- Shall be given reasonable notice of the hearing. The notice shall include:
 - The date, hour, place and nature of the hearing. The hearing shall be held at the principal office of the agency unless otherwise specified.
 - The legal authority and jurisdiction under which the hearing is to be held, including a reference to appropriate statutory and rule sections.
 - A short and plain statement of the matters asserted and the issues involved.
- A member of the Legislature is privileged from service of notice or other process if on a day when there is a scheduled meeting of the house of which he or she is a member unless the legislator is served by certified mail, return receipt requested.
- May file a written answer before the date set for the hearing.
- May present oral and written arguments on issues of law and policy and evidence and argument on issues of fact.
- May cross-examine a witness, including the author of a document prepared by, on behalf of, or for use of the agency and offered into evidence.
- May submit rebuttal evidence.
- May file suit in the circuit court in Ingham county or the county in which the hearing is held, to force compliance with a subpoena issued on his/her behalf by an agency.
- May object to offers of evidence.
- May, by stipulation, agree upon facts in controversy, which stipulations shall be used as evidence at the hearing and binding upon the parties to the stipulation.
- May, by written stipulation, waive the requirement for the issuance of a proposal for decision.
- May seek judicial review of the results of a contested case hearing, including final action taken by a presiding officer regarding the award of fees and costs.

Agency:

- Must provide timely and appropriate notice to parties of the hearing.
 - Must provide an opportunity for the party to file an answer, present written and oral arguments and evidence, cross-examine witnesses, and submit rebuttal evidence.
 - May provide that all or part of the evidence be submitted in written form.
- May proceed with a hearing if a party fails to appear after proper service of the notice. and make a decision in the absence of the party.
- When authorized by statute, may, upon the written request of a party in a contested case proceeding, issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence including books, records, correspondence and documents under the possession or control of the person to whom the subpoena is issued.
- Shall revoke a subpoena, if so requested in writing, if the evidence requested does not relate to a matter in issue, if the subpoena does not sufficiently describe the requested information or if for any other reason the subpoena is invalid.
- Shall require witness fees to be paid in accordance with § 2552 of Public Act 236 of 1961, as amended.

- May adopt rules providing for discovery and depositions to the extent and in the manner appropriate to its proceedings.
- Shall make statements or reports with respect to the subject matter at issue made by an agency witness available to other parties for use in cross-examination.
- Shall promptly make identifiable agency records concerning disputed material facts available to parties except records related solely to the internal procedures of the agency or which are exempt from disclosure by law.
- Shall follow the rules of evidence applicable to non-jury trials in circuit court as far as practicable, but may admit and give probative effect to evidence of a type commonly relied upon by prudent men and women in the conduct of their affairs.
 - May exclude irrelevant, immaterial or unduly repetitious evidence.
 - Shall give effect to the rules of privilege recognized by law.
- Shall offer and make a part of the record all evidence presented in a hearing.
- Shall accept documentary evidence in the form of a copy or an excerpt if the original is not readily available, or may be incorporated by reference if the material so incorporated is available for inspection by other parties.
- Shall provide an opportunity for parties to compare the original with the copy.
- May take official notice of judicially cognizable facts and general, technical or scientific facts within the agency's specialized knowledge.
 - Shall notify parties at the earliest practicable time of any noticed fact which pertains to a material disputed issue and provide an opportunity, before the final decision, for parties to dispute the fact or its materiality.
- May use its experience, technical competence and specialized knowledge in the evaluation of evidence presented to it.
- Upon the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of a presiding officer, shall determine the matter as part of the record in the case.
 - This determination is subject to judicial review at the conclusion of the proceeding.
 - If the presiding officer is disqualified, assigns another presiding officer to continue with the case unless substantial prejudice will result.
- Shall prepare an official record of a hearing, which shall include:
 - Notices, pleadings, motions and intermediate rulings.
 - Questions and offers of proof, objections and rulings thereon.
 - Evidence presented.
 - Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose.
 - Proposed findings and exceptions.
 - Any decision, opinion, order or report by the presiding officer and the agency.
- Shall record oral proceedings at which evidence is presented, but need not transcribe such proceedings unless requested by a party who shall pay for the transcription, unless otherwise provided by law.
- May order a rehearing on its own motion or upon request of another party.
 - Requests shall be made within 60 days after the date of mailing of the final decision.
 - The rehearing shall be noticed and conducted in the same manner as the original hearing.
 - Evidence received at the rehearing shall be included in the record for agency and judicial review.
- May amend or vacate an order or decision after rehearing.
 - Shall pay any fees or costs awarded under this Act.
- Shall provide information to the Department of Management and Budget concerning fees and awards paid, upon request.

Officer of an Agency:

- Presiding officers are:
 - The agency (e.g., a commission);
 - 1 or more members of an agency;

- A person designated by statute; or
 - Hearing officers designated and authorized by the agency.
 - May administer oaths or affirmations.
 - May certify official acts.
 - May take depositions.
 - May regulate the course of the hearing, set the time and place for continued hearings and fix the time for filing of briefs and other documents.
 - May direct the parties to appear and confer to consider simplification of the issues by consent of the parties.
 - May act upon an application for award of costs and fees.
 - May hold hearings on non-legislative meeting days when a party is a member of the legislature.
 - May require the testimony of legislators on non-legislative meeting days.
 - May grant continuances, and must notify all parties and their attorneys of any such continuance granted.
 - Shall award to a prevailing party, other than an agency, the costs and fees incurred by a party if there is a finding that the position of the agency was frivolous.
 - To determine whether an agency position was frivolous, must find that at least 1 of the following conditions was met:
 - The agency's primary purpose in initiating the action was to harass, embarrass or injure the prevailing party.
 - The agency had no reasonable basis to believe that the facts underlying its legal position were true.
 - The agency's legal position was devoid of arguable legal merit.
 - Shall hold a hearing concerning the awarding of fees if the parties do not agree to the awarding of costs and fees, where the party seeking the fees must show the following:
 - That the position of the agency was frivolous.
 - That the party prevailed.
 - The amount of costs and fees sought with an itemized statement from any attorney, agency, or expert witness showing the rate at which the costs and fees were computed.
 - That the party is eligible to receive an award.
 - That a final order is not subject to further appeal other than judicial review of the costs and fees.
 - May award requested costs and fees, modify the request, or deny such an award, to the extent the party seeking the award engaged in conduct which unduly and unreasonably protracted the contested case.
 - Attorney or agent fees shall not exceed a rate of \$75 per hour in the absence of a finding of special circumstances justifying a higher rate or the agency has a rule providing for a higher rate.
 - Costs and fees may not exceed the amount that the agency caused the prevailing party to incur.
 - Shall provide written findings of his or her action and the reasons for the findings.
- NOTE: The fee provisions do not apply to:
- Any agency in its role of hearing or adjudicating a case.
 - An agency acting on behalf of a non-agency person who has a private interest in a matter.
 - An agency required by law to commence a case upon the action or request of another non-agency person.
 - An agency that has a minor role as a party in relation to other non-prevailing parties so as to make its liability for costs and fees unreasonable, unjust or unfair.

Department of Management and Budget:

- Annually, must report to the legislature the amount of fees and costs paid by the State under this Act for the preceding fiscal year. The report shall include the number, nature, and amount of the

award, the claims involved, and any other relevant information to help the legislature evaluate the scope of the awards.

Proposals for Decision:

- Where the official or a majority of the officials who are to make the final decision have not heard the evidence or read the record, the person who did conduct the hearing or a person who has read the record must issue a proposal for decision, if the decision is adverse to a party other than the agency.
- Must be served on all parties and each must be given an opportunity to respond and file exceptions to the proposal.
- Must contain a statement of the reasons for the conclusions reached and each issue of fact and law necessary to the proposed decision.
- Without further proceedings, or the filing of exceptions, will become the final decision of the agency.
- May be waived by the parties by written stipulation or at the hearing.

Final Decisions or Orders:

- Shall be made, in writing or stated in the record, within a reasonable period of time after the issuance of the proposal for decision or the end of the hearing if no proposal is prepared.
- Shall be based upon the whole record or portion thereof as may be cited by a party and supported by an in accordance with competent, material and substantial evidence.
- Shall include findings of fact and conclusions of law.
- Shall include findings of fact based exclusively on the evidence and on matters officially noticed and, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts which support them.
- Shall include a ruling upon each proposed finding of fact proposed by a party.
- Shall contain conclusions of law supported by authority or reasoned opinion.
- Shall be mailed or delivered to each party and his or her attorney of record.

Instruction D: Licenses

NOTE: This section and the prior section governing contested case hearings apply ONLY where a licensing action requires notice and opportunity for a hearing prior to the issuance of the license.

Licensee:

- Makes timely and sufficient application for renewal of a license or a new license with reference to an activity of a continuing nature.
 - The existing license does not expire until:
 - A decision on the application is finally made by the agency; or
 - If the application is denied or the terms modified, until the last day for applying for judicial review or a later date established by the court.

Agency:

- Shall give notice, personally or by mail, to the licensee prior to commencement of any proceeding for suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license.
- Shall provide the licensee with the opportunity to show compliance with lawful requirements for the retention of the license.
- May order summary suspension of a license if a finding that the public health, safety or welfare requires emergency action and incorporates such findings in its order.
 - Summary suspensions are effected on the date specified in the order or on service of a certified copy of the order on the licensee, whichever is later.
- Shall promptly commence a hearing after issuance of a summary suspension.

Instruction E: Judicial Review

- Parties must be aggrieved by a final decision or order in a contested case and must exhaust all administrative remedies available within an agency prior to seeking judicial review. Parties do not have to file a motion or application for rehearing unless agency rules require that filing prior to filing for judicial review.
- Shall be in accordance with applicable statutes and general court rules.
- In the absence of a specific statutory provision, petitions shall be filed in the circuit court for the county where the petitioner resides or has his or her principal place of business in this State, or in Ingham County.
 - Petitions shall be filed in the court within 60 calendar days after the date of mailing notice of the final decision or order of the agency, or if rehearing before the agency is timely requested, within 60 days after delivery or mailing notice of the decision or order on the rehearing petition.
 - Filing of a petition does not stay enforcement of the agency action, but the agency, or the court may grant a stay.
- Within 60 calendar days after service of the petition or such further time allowed by the court, the agency shall transmit to the court the original or certified copy of the entire record of the proceedings unless the parties stipulate otherwise.
 - Parties unreasonably refusing to stipulate may be subject to taxation by the court for the additional costs.
 - The court may permit subsequent corrections to the record.
- Reviews shall be conducted without a jury and confined to the record.
- The court may, upon request, hear oral argument and receive written briefs, and may take proof of alleged irregularity in procedure before the agency if the alleged irregularity is not shown from the record.
- The court may grant requests for leave to present additional evidence if it can be shown that an inadequate record was made at the agency level or that the additional evidence is material and there were good reasons for not presenting it in the agency proceeding.
 - The agency may modify its findings, decision or order based on this new evidence and file the additional finding, decision or order with the court.
- Unless an applicable statute or the Constitution provides for a different scope of review, the court shall hold unlawful and set aside an agency decision or order if substantial rights of the petitioner have been prejudiced because the decision or order is any of the following:
 - In violation of the State or Federal Constitution or statute.
 - In excess of the statutory authority or jurisdiction of an agency.
 - Made upon unlawful procedure resulting in material prejudice to a party.
 - Not supported by competent, material and substantial evidence on the whole record.
 - Arbitrary, capricious or clearly an abuse or unwarranted exercise of discretion.
 - Affected by other substantial and material error of law.
- The court may affirm, reverse or modify the decision or order or remand the case for further proceedings.
- In matters concerning the awarding of fees or costs, the court may modify a final action taken by a presiding officers only if there is a finding that to make an award, or the making of the award was an abuse of discretion or that the calculation of the amount was not based on substantial evidence.

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